

**MINUTES
of the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**October 4-5, 2012
Chilili Sala
Chilili, New Mexico**

The fourth meeting of the Land Grant Committee (LGC) was called to order at 9:59 a.m. on October 4, 2012 by Senator Richard C. Martinez, chair, in the Chilili Sala.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Alonso Baldonado
Rep. Eleanor Chavez (10/4)
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Rep. Rod Adair
Rep. Paul C. Bandy

Advisory Members

Sen. Carlos R. Cisneros (10/4)
Rep. Patricia A. Lundstrom
Sen. David Ulibarri

Rep. Joni Marie Gutierrez
Rep. Jim W. Hall
Rep. Ben Lujan
Rep. Richard D. Vigil

(Attendance dates are noted for members who were not present for the entire meeting.)

Staff

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)
Peter Kovnat, Staff Attorney, LCS
Alex Tapia, Legislative Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, October 4

Call to Order

Senator Martinez welcomed everyone to the meeting in the Chilili Land Grant and thanked the land grant for its hospitality. Members of the committee and staff were asked to introduce themselves.

Welcoming Remarks and History: Chilili Land Grant

Juan Sanchez, president of the Merced del Pueblo de Chilili and chair of the Land Grant Council, presented to the committee the history of the Chilili Land Grant and provided an update of recent projects. The Chilili Land Grant was granted by the Mexican government in 1841, with the original land grant patent map showing 410,481 acres. In 1876, Chilili became the first land grant to gain status, and in 2007, it became recognized as a unit of government. Mr. Sanchez informed the committee that Chilili has a rich history of heirs and currently maintains a population of about 250 people living on the grant. Throughout the years, members of the community have found pieces of pottery and arrowheads dating back to the early 1600s. According to legend, the main Spanish mission was located in Chilili, and there is evidence of a convent that was close to the arroyo. Mr. Sanchez explained the process of archaeological excavation to the committee. Chilili is currently conducting several projects on the land grant, including:

- forest thinning and restoration. The community of Chilili has been conducting a deforestation project in its forests. The project consists of cutting trees and lopping off branches to a specified height. The goal is to prevent forest fires and to promote healthy habitats for wildlife and vegetation. The U.S. Forest Service will be conducting controlled burns along the west boundary of the land grant.
- water level monitoring. Chilili is in the Estancia water basin and has been monitoring the water levels in the basin. It has been able to conserve more water. Mr. Sanchez noted that irrigated water rights are being turned over for domestic use.
- housing project. Chilili has received funding from a community development block grant (CDBG) and has applied for infrastructure improvements. The goal is to provide housing and to clear leases through the Mortgage Finance Authority. Construction on 12 approved lots is to begin in mid-October. The housing project is not a subdivision, and the people living in the new houses will not own the land, only the house. The Chilili Land Grant board would assist in the event of a default on a home. Low- to moderate-income heirs are eligible for the housing project. A non-profit housing assistant program is helping the land grant with this process.
- Hollywood movies. The Chilili Land Grant has been the site for several movies, such as *The Avengers*. Most recently, the construction of an Afghan village in the land grant is underway for the upcoming movie, *Lone Survivor*.

Questions from Committee Members

A member of the committee requested a concise summary of the history of what Chilili

has experienced to get to where it is today as a recognized land grant. Mr. Sanchez proceeded to provide a history of the land grant for the committee, explaining issues of delinquent property taxes and conflicts with Torrance and Bernalillo counties. Mr. Sanchez also discussed some of the public road disputes that resulted in the involvement of the Bernalillo SWAT team in 1998. According to Mr. Sanchez, the land grant has always had issues with the federal government and with the legal advice that it was given in the 1940s.

In reference to election process concerns in Anton Chico, a member of the committee asked Mr. Sanchez to explain Chilili's election process and organization. The Chilili Land Grant board is composed of five elected members. Election information is announced in the newspaper so people from the land grant can file their candidacy. The names of all of the candidates are then published in the newspaper, and the election is held on the last Sunday in June every year.

Another member asked about water rights issues and if the land grant is directly in charge of water rights. According to Mr. Sanchez, Chilili was one of the land grants that did not get acequias, but it had two recorded acequias. Chilili does not have an acequia association, issues relating to water are handled by the board of trustees. The land grant has declared its water rights with the Office of the State Engineer based on the original map of the land grant. The committee member noted that this may be something that needs to be addressed in statute.

A member of the committee asked about the forest clearing, specifically who is getting the wood that is being harvested. Mr. Sanchez responded that the land grant board of trustees issues permits to heirs for \$10.00 and allows permit-holders to harvest on weekends from the thinning project area. The land grant has hired some members of the grant to do the clearing. Some of the wood is donated to seniors and St. Vincent de Paul. There was some discussion about potential alternative disposal of forest waste, such as chipping and Incitor.

Several members of the committee stressed the importance of recording the oral history of the land grant for future generations.

Questions were raised by members of the committee about job opportunities, the film industry and movie projects. Mr. Sanchez explained that the main interest in the movies and the wood-clearing project is economic development for the land grant. The board currently employs seven individuals for the thinning project. For the movies being filmed on the land grant, the board negotiated a contract to provide jobs on the sets, including construction workers and security personnel. Mr. Sanchez expressed the difficulty of being understaffed. With an all-volunteer staff, the Land Grant Council, frequently is hampered by not having more available manpower. The Land Grant Consejo and the Land Grant Council met with the film association. As a result, Mr. Sanchez believes that in addition to critical contacts, they now have a better idea of what needs to be done to work with the film companies.

A member of the committee asked about boundary issues. Mr. Sanchez replied that most of the time, boundaries are not a problem. The majority of the land surrounding the land grant is

private, with the exception of some U.S. Forest Service land along the northwest corner of the land grant.

Responding to questions about the housing project, Mr. Sanchez explained that either built or modular homes will be allowed because they are more energy-efficient. Each parcel of land will have its own septic and water system. The land will be leased, generating revenue for the land grant and creating a fund. Housing assistance will help with the mortgaging of the homes.

A member of the committee asked about the current relationship between Bernalillo County and Chilili. Mr. Sanchez replied that it is not as bad as before and that relations got better once Chilili was established as a unit of government. Mr. Sanchez said that the Land Grant Council tries to explain to other land grants the responsibilities of becoming a unit of government, stressing the ability to maintain roads. Taxes are still a big issue, with the county not administering the tax properly. For example, some land is doubly assessed, while other portions of land are within county jurisdiction and are not assessed. Chilili pays taxes for the cemetery, the church and the highway. There is an easement that belongs to the Department of Transportation, but the land belongs to the land grant. The land grant continues to pay taxes on this land to maintain clarity of ownership. The Chilili Land Grant is part of the Mid-Region Council of Governments but has always had a contentious relationship with the organization.

One member of the committee asked what the biggest advantage of becoming a political subdivision has been for Chilili. Mr. Sanchez stated that for Chilili it has been the jurisdiction issue and being recognized as a unit of government. Mr. Sanchez also acknowledged a downside — that of being a government, itself. Chilili is still learning how other villages operate, and the learning process takes time.

Update on Litigation Involving Traditional Cultural Properties (TCP) Designation on Mount Taylor

Sarah Maestas Barnes, heir and representative of the Cebolleta Land Grant, provided an update to the committee on the ongoing litigation involving Mount Taylor and the TCP designation. Ms. Barnes informed the committee that the New Mexico Supreme Court heard oral arguments on the issue the previous week. At the time of Ms. Barnes' testimony, no opinion had been reached by the court, but she expressed confidence in Cebolleta's briefing and the court's ability to uphold the law and support the land grants.

Questions from Committee Members

Members of the committee asked Ms. Barnes about the court proceedings and the dispute. Ms. Barnes explained that all private property owners were to be excluded from the TCP. Some private landowners were present at the court hearings. Ms. Barnes was unsure about the acreage of the private land included in the TCP, but she informed the committee that 19,000 acres — more than half of the land grant — is claimed by the TCP. It was noted that the Cubero Land Grant was excluded from the boundaries of the TCP, but the Marquez Wildlife Area was not.

Conroy Chino, a registered lobbyist for the Pueblo of Acoma and the Jicarilla Apache Nation, was asked by a member of the committee to address the LGC on this issue. Mr. Chino explained that the TCP was sought by five different tribes because of its sacred and historic significance. The issue has become the land grants versus the tribes of New Mexico, despite the commonalities shared by both groups. Mr. Chino believes that the primary issue is uranium, which is the biggest issue for the tribes. He would like to see the groups sit down to discuss Mount Taylor and the TCP.

Ann Rogers, who represents the Pueblo of Acoma, echoed the sentiments of Mr. Chino, stressing the need for these communities to work together. Ms. Rogers explained that the pueblos believe that all private properties are excluded and that the Cubero Land Grant was excluded because the Pueblo of Acoma, which is responsible for determining what land would be contributed to the TCP, decided that Cubero was not that valuable for purposes of the TCP.

A member of the committee asked about the role of uranium mining in this conflict, as opposed to historic value. Mr. Chino responded that 19,000 acres of the Cebolleta Land Grant were taken for the TCP, and there are plans to develop areas within the land grant for uranium mining. There is a real concern for the degradation of land and water that occurs with mining. That is the biggest concern of the pueblos.

Ms. Barnes reasserted that there are no plans to develop uranium mining within the 19,000 acres of the land grant. The land grant has indicated where there is a potential for future mining, but not on the same land. The Cebolleta Land Grant only has 34,000 acres. The goal of the land grant is not to protect uranium mining. Ms. Barnes, speaking on behalf of the Cebolleta Land Grant, told the committee that the land is sacred to the land grant, which wants to maintain control of the land. Ms. Barnes said that Cebolleta should have been initially invited to the table about the TCP and that it will continue to fight because the land is important to the heirs. It is their goal to preserve the land for the future generations.

A member of the committee stressed that the issue is about preserving history and not about uranium. The LGC has never been about uranium or mining.

Update on Transfer of the Marquez Wildlife Area to the Cebolleta Land Grant

Ms. Barnes addressed the committee about the transfer of the Marquez Wildlife Area. According to her testimony, Cebolleta made a presentation to the State Game Commission in August. The commission took a public vote, which determined a lack of interest in the transfer at the time. Cebolleta made it clear to the commission that it continues to have an interest in the transfer if the commission changes its mind.

Daniel Brooks, deputy director, Department of Game and Fish, informed the committee that the State Game Commission met to discuss the issue in November 2011 and decided not to make the transfer at that time. The commission heard input from a lot of sportsmen and sportswomen that use the land and recognized their opposition to the transfer. The Marquez

Wildlife Area was purchased in the 1950s using hunting and fishing license money.

Questions from Committee Members

Members of the committee asked Mr. Brooks about use of the land and its limited access. One member stressed that the gates to access roads need to remain unlocked. Mr. Brooks was unsure of the number of hunters that use the Marquez Wildlife area, prompting Representative Rodella to request harvest reports for the last four years, along with numbers for the last five years of hunters using the land and for what species. It was suggested to include a map of how hunters can access the Marquez Wildlife Area.

Mr. Brooks added that the Department of Game and Fish grants access to hunters through a specified area. Access is tough and not accessible 365 days a year. Hunters are given the combination to the locked gate. State Game Commission land is not open for activities other than hunting and fishing with licenses. A member of the committee noted that if it is not accessible to the general public, then something needs to be done to dispose of the land.

A member of the committee expressed disappointment in what he considered a step backward in the relationship between the land grants and the Department of Game and Fish. All land owned by a state entity that was once part of a traditional land grant should be returned to that land grant. Land needs to end up in its rightful hands. The member asked Ms. Barnes to provide her interpretation of the chain of events leading up to the commission's decision to not transfer the Marquez land. Ms. Barnes recounted the last few years, highlighting miscommunication as a contributing factor to the transfer being denied. Mr. Brooks acknowledged Ms. Barnes' recollections as correct.

Representative Rodella requested a breakdown on the cost to maintain the land in question, referring to the original reasons for the transfer.

Discussion occurred regarding the joint resolution from the previous legislative session that included access for sportsmen and women in the event of the transfer of the land. Ms. Barnes stated that the joint resolution was a formality intended to expedite the process. Members of the committee discussed the process of returning lands to land grant heirs and several scenarios of land transfer.

Approval of Minutes

Motion 1

Upon a motion by Representative Garcia, seconded by Senator Sanchez, the committee voted unanimously to approve the minutes of the second and third meetings of the LGC.

Report from the Land Grant Council

Mr. Sanchez informed the committee that the Land Grant Council does not have a written report this year due to a lack of staff and funding. Mr. Sanchez updated the LGC about gains the council has made working with the U.S. Forest Service and establishing memoranda of

understanding with the Carson, Cibola and Santa Fe national forests. The council has achieved National Environmental Policy Act clearance on acres of land grant areas for firewood and other traditional-use rights through U.S. Representative Ben R. Lujan's office. The Land Grant Council is working with other land grants, such as Anton Chico and San Miguel del Vado, regarding elections and helping them refine their bylaws.

The biggest challenge facing the Land Grant Council is funding and a lack of hired staff. Mr. Sanchez noted that the council had \$150,000 when it was first established. In fiscal year 2011, the council received no funding and in fiscal year 2012, it was allotted \$11,000. In July 2012, the Department of Finance and Administration (DFA) requested money from the Legislative Finance Committee in the amount of \$50,000. The Land Grant Council is seeking money from the LGC to fund some staff. The council has submitted a budget for \$30,000 and is requesting a nonrecurring amount of \$50,000 based on the suggestion of the DFA.

Questions from Committee Members

Motion 2

Senator Cisneros requested that a letter be sent to the DFA regarding the importance of having funds reflect the current levels. A motion was made by Senator Sanchez, seconded by Representative Garcia, to have staff prepare a letter requesting the \$300,000.

There was discussion by the committee about the Land Grant Studies Program at the University of New Mexico (UNM) and efforts to reach out to the next generation of land grant heirs and leaders by educating them on land grant issues and history.

Report from the Land Grant Consejo

Gilbert Ferran, chair, Land Grant Consejo, provided a history of how the consejo was established. The consejo was formally established in December 2006 with the adoption of a set of bylaws and with the eventual participation of 28 community land grants in New Mexico and one in Colorado. The consejo is an organization of land grants composed of representatives appointed from each of the member land grants. The consejo is an advocacy organization, established for the purpose of advancing the collective interests of community land grants by working with the New Mexico Legislature, New Mexico executive agencies and U.S. executive agencies, especially the U.S. Forest Service, the Bureau of Land Management (BLM) and Congress.

By 2009, the consejo adopted a new strategy that included working with the newly established Land Grant Council. The strategy included advocating for traditional-use rights for land grant heirs within the historic common lands or traditional-use lands of the land grants. The consejo has achieved some victories for the land grants and continues to work toward several long-term priorities, including:

- the recovery of former common lands;
- the legislative repeal of *United States v. Sandoval* (1897);

- payment in lieu of taxes for common lands now managed by the federal government;
- taking action on unadjudicated or unjustly adjudicated land grants;
- federal recognition of priority and pre-existing rights to water, minerals and other natural resources on existing and former common lands; and
- establishing a funded endowment for land grants to support land recovery, economic development, education and cultural preservation.

Questions from Committee Members

A member of the committee requested Dr. Manuel Garcia y Griego from the Land Grant Studies Program to address the committee regarding *U.S. v. Sandoval*. Dr. Garcia y Griego explained that the case's importance was the decision by the U.S. Supreme Court that the lands belong to the Mexican government, and as a result of the Treaty of Guadalupe Hidalgo, the land now belongs to the U.S. government. As a result, seven land grants in New Mexico were stripped of all their common lands, which totaled over three million acres. Land grants that were adjudicated early got most or all of their lands. Those lands adjudicated later in the process were lost. A Government Accountability Office report mentioned the repeal of *U.S. v. Sandoval*.

A member of the committee asked Mr. Ferran if the consejo has any pending or proposed legislation and if it is contemplating the repeal of *U.S. v. Sandoval*. Mr. Ferran stated that the consejo is currently proposing the return of a cemetery and traditional-use rights. In regard to *U.S. v. Sandoval*, its repeal is a goal of the consejo, but the process is long and slow.

In reference to the Chilili Land Grant's private housing project, a member of the committee asked if the consejo has considered working on similar legislation to create a fund for infrastructure. Mr. Ferran acknowledged some talk about the project, but he said that there has not been any official legislation in the works. Chilili, he noted, is going to set a precedent with its housing project.

Members of the committee discussed several suggestions for the consejo, such as working with UNM's film program to produce documentaries for the land grants and looking into money allocated for the Water Trust Board to help with land grant infrastructure and water projects.

Land Grant Studies Program

Dr. Garcia y Griego provided some background on what the Land Grant Studies Program has done and its vision. The program was established as a result of legislative funding, and with the help of a current \$29,900 budget, it is able to hire student interns to examine land grant issues. Students work on presentations about land grants for external consumption and conduct historical and archival research in Santa Fe. In addition, the program also provides office support for land grants in the form of digitizing records, researching genealogies and taking minutes. The program hopes to fund a few graduate students to conduct research and write their master's theses on land grant issues.

Outreach is a major goal of the Land Grant Studies Program. However, it is becoming increasingly difficult with the reductions in funding since 2009. The program was originally supposed to receive funding of \$117,500 on a recurring basis. Dr. Garcia y Griego highlighted the mapping project as a major undertaking focused on developing the historical boundaries of land grants by researching in Santa Fe and Washington, D.C. Land grants have a fairly complex history, and the next step includes incorporating research with GPS work to identify the historical boundaries.

The Land Grant Studies Program had plans to meet with the BLM in early November to review 12 land grant maps. The meeting was to be a workshop, with two goals: 1) to describe the methodology, intentions and possibilities of traditional-use agreements; and 2) to gain an understanding of how the U.S. Forest Service works with land grants and the best way to deal with them.

Dr. Garcia y Griego noted a lack of knowledge surrounding land grants outside of New Mexico. He stressed the need for oral histories and public outreach to preserve the wealth of knowledge for the next generation. Dr. Garcia y Griego also suggested cooperation with the UNM School of Law on land grant issues.

Questions from Committee Members

A member of the committee suggested an interface between the Land Grant Council and the Land Grant Studies Program. Dr. Garcia y Griego affirmed that while the council has the expertise, it lacks the resources it needs. The program can provide student support for projects but cannot provide funding. In the past, the program has helped land grants with the election code.

Representative Garcia requested staff to draft legislation for discussion at the final LGC meeting of the interim for an appropriation of \$117,500 for the Land Grant Studies Program.

A member of the committee suggested cooperation with the state historian in order to minimize a duplication of efforts. Dr. Garcia y Griego informed the committee that he has looked at what the state historian has done and that the Land Grant Studies Program's work has complemented it. There is an academic interest in this topic as well as a public policy interest in those land grants that have boards of trustees.

A member of the committee inquired about the contract between the Land Grant Council and the DFA. Dr. Garcia y Griego clarified that it is not a contract between the DFA and the Land Grant Council, but that it was approved by the DFA. Dr. Garcia y Griego believes it would not have been simpler to contract directly with the program because the program is already doing too much. The program is best organized for archiving and research. The council needs legislative support and funding.

U.S. Forest Service and the New Mexico Land Grants

James Melonas, New Mexico state liaison, U.S. Forest Service, Southwestern Region, provided an update on U.S. Forest Service work with land grant communities. During his presentation, Mr. Melonas highlighted the following:

- The Land Grant Council Memorandum of Understanding (MOU). This MOU, signed in 2011, serves as a framework for expanding partnerships and relationships between the two parties. As part of the MOU, the two parties meet regularly to work together to resolve local issues.
- The Master Stewardship Agreement. This agreement will tie to the MOU and foster on-the-ground stewardship agreements between national forests or local ranger districts and individual land grant communities for the use of forest products.
- The Truchas Land Grant Boundary. Representatives from the Truchas Land Grant, the U.S. Forest Service, the Land Grant Council, the Land Grant Consejo, the Land Grant Studies Program and Senator Tom Udall's office visited the southern boundary of the land grant. A follow-up meeting was scheduled in October to discuss the results of the findings.
- The Mapping Project. The U.S. Forest Service is working with the Land Grant Council and the Land Grant Studies Program on the mapping project.
- The Collaborative Forest Restoration Program. This program is designed to encourage collaborative partnerships to build sustainable communities and forests. To date, there are 12 projects that involve land grant partners, including the Merced del Pueblo de Chilili and the San Antonio de las Huertas land grants.
- The United States Department of Agriculture (USDA) StrikeForce. This program is an effort to increase outreach to rural communities to take advantage of available USDA programs and to provide funding and low-interest loans.

Questions from Committee Members

A member of the committee asked about the U.S. Forest Service's capacity to return land grant land if boundaries are incorrect as well as who would pay for the survey and any moving of the fences, if necessary. Mr. Melonas answered that the U.S. Forest Service would need to do a formal survey. There would not need to be congressional action. The regional forester overseeing the Southwest would be involved in that decision.

A member of the committee asked about the U.S. Forest Service's position on traditional-use rights. Mr. Melonas explained that if legislation were to be introduced and a hearing was held, the agency would take a position on the bills. The U.S. Forest Service has the authority to work with local communities through stewardship agreements giving rangers tools to work with the land grants.

A member of the committee requested that Mr. Melonas present some of the U.S. Forest Service's findings at the final LGC meeting. The member also asked for clarification on the USDA StrikeForce program's loans. Mr. Melonas explained that the loans are intended for

economic and community development for historically underserved communities. There are a lot of programs available that are not used to their full potential. The purpose of the program is to help communities navigate the USDA bureaucracy and inform them about available programs.

Recognition of the Chihene Nde Nation

Manny Sanchez, chair, Chihene Nde Nation of New Mexico, provided an in-depth historical account of the of the Chihene Nde people. Mr. Sanchez requested a memorial acknowledging the existence of his people and asking the New Mexico congressional delegation to assist in the nation's federal re-recognition effort. The Chihene Nde Nation is not recognized today because of the federal Indian Reorganization Act. Mr. Sanchez talked about current efforts and projects, including a posttraumatic stress disorder treatment program and protection of sacred sites.

Lorraine Garcia, member at large, tribal council/historic recordkeeper, Chihene Nde Nation, continued the presentation by reading aloud the essay "From the Mogollon to Chi'hene".

Questions from Committee Members

Members of the committee asked various questions about what is being asked by the representatives of the Chihene and efforts to work with universities on research and archaeological excavations. Mr. Sanchez noted the help of Western New Mexico University, New Mexico State University and the UNM School of Law.

Representative Garcia requested staff to draft a memorial and collaborate with presenters on the language of the memorial.

Public Comment

Lou Sena, heir of the San Miguel del Vado Land Grant, provided an update of the 2012 board election. The election issues remain unresolved, and Mr. Sena asked the LGC to speak to the courts on behalf of the land grant, requesting that the community be allowed to resolve its own issues.

A member of the committee suggested that the San Miguel del Vado Land Grant issue be added to the agenda of the final meeting.

Recess

The committee recessed for the day at 5:00 p.m.

Friday, October 5

Tour of the Chilili Land Grant

The committee toured the Chilili Land Grant, including a visit to the church and the Afghan village set for *Lone Survivor*.

Adjournment

There being no further business before the committee, the fourth meeting of the LGC was adjourned at 1:30 p.m.